

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 31 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HENRY MICHAEL HOUSTON,

Defendant - Appellant.

No. 07-50329

D.C. No. CR-02-00938-DOC-31
Central District of California,
Los Angeles

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WAYNE K. BRIDGEWATER,

Defendant - Appellant.

No. 07-50330

D.C. No. CR-02-00938-DOC-13
Central District of California,
Los Angeles

ORDER

Before: SCHROEDER, Chief Judge, HAWKINS and WARDLAW, Circuit Judges.

Appellants Henry Michael Houston and Wayne K. Bridgewater appeal from the denial of their motions to preclude or limit the death penalty phase of their first trial on double jeopardy grounds. Appellant Wayne K. Bridgewater's unopposed motion to consolidate interlocutory appeal Nos. 07-50330 and 07-50329 is granted.

07-50329, 07-50330

Appellants' emergency motions for a stay of their capital sentencing hearing pending this court's review of these interlocutory appeals is denied. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *see also Schiro v. Farley*, 510 U.S. 222, 230 (1994) ("Our prior decisions are inconsistent with the argument that a first sentencing proceeding can amount to a successive prosecution."). The district court retains jurisdiction to proceed with the trial.

The Clerk shall file appellant Henry Michael Houston's opening brief and excerpts of record, received July 24, 2007 in appeal No. 07-50329. The Clerk shall file appellee's excerpts of record, received July 30, 2007 in appeal Nos. 07-50329 and 07-50330. Appellant Wayne K. Bridgewater's opening brief is due August 30, 2007. Appellee's consolidated answering brief is due September 29, 2007. Appellants' consolidated optional reply brief is due within 14 days after service of the consolidated answering brief.